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Frank C. Nicholas
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, IL 60201

EXAMINER

KANG, INSUN

| | |
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| ART UNIT | PAPER NUMBER |
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2193

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/045,321 | Applicant(s) MORRISSEY ET AL. | |
| | Examiner Insun Kang | Art Unit 2124 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2002.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 10 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/10/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responding to application papers dated 1/10/2002.
2. Claims 1-21 are pending in the application.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matters in claims 2, 7, 8, 10, 15, 17, and 21 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

The abstract does not contain sufficient description of the invention. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-8, 10-15, and 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Per claim 2, it is unclear whether receiving step is performed after the determining step in claim 1 as the server receives test system requirements first and then determines the requirement compatibility in Fig.5. It is interpreted as the receiving step is performed before the determining step. Per claims 10 and 17, they are rejected for the same reasons set forth in connection with the rejection of claim 2.

Per claim 4, it is unclear whether receiving step is performed after the determining step in claim 1. It is interpreted as the receiving step is performed before the determining step. The test system description refers to the description in claim 1? Per claims 12 and 18, they are rejected for the same reasons set forth in connection with the rejection of claim 4.

Claim 5 recites the limitation "the test system description" in line 2. There is insufficient antecedent basis for this limitation in the claim. The claim also does not further limit the subject matter of previous claims. Are there two comparing steps in claim 5? Per claims 13 and 19, they are rejected for the same reasons set forth in connection with the rejection of claim 5.

Claim 7 recites the limitation "the test system description" in line 6. There is insufficient antecedent basis for this limitation in the claim. Per claims 15 and 21, they are rejected for the same reasons set forth in connection with the rejection of claim 7.

Claim 8 recites the limitation "the group" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is unclear whether the "group consisting of" is meant to be "the group comprising" because the "group consisting of descriptions...with a particular test" is not supported in the specification. The specification recites that the "test system descriptions list may comprise, for example, descriptions of ...particular test (page 3)." Therefore, it is interpreted as "comprising." Appropriate correction is required.

As per claims 3, 6, 11, 14, and 20, these claims are rejected for dependency on the above rejected parent claims.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Laviolette et al. (US Patent 6,779,134) hereinafter referred to as "Laviolette."

Per claim 1:

Laviolette discloses:

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-selecting a test system in a distributed network environment (i.e. "selected target software to be tested by a selected one of the plurality of test stations," col. 3 lines 13-24; "A software test system and method detects a hardware configuration of each of plurality of test stations that are coupled to a processor such as a test center server," abstract)

-determining, at a management server, a target test system description, the target test system description associated with a software test (i.e. "The test system main server 108 then stores the hardware configuration data provided by the test station agent software as part of the system profile information 132," col. 6 lines 53-64; "the hardware configuration data for use in determining which of the plurality of test stations is a suitable test station for testing target software to be tested," col. 3 lines 1-12)

-comparing, at the management server, the target test system description to a test system descriptions list (i.e. "The test system main server 108 then stores the hardware configuration data provided by the test station agent software as part of the system profile information 132. The hardware configuration data represents the detected hardware configuration of each of the plurality of test stations... a memory map file containing the hardware status of each test station under its control," col. 6 lines 53-64; "the selected test station defined by the test job bundle with... a different operating system, different target software to be tested, and different test software for testing the software under test," col. 3 lines 30-34)

-selecting a test system description from the test system descriptions list that matches the target test system description; and contacting a selected test system, the selected

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test system associated with the selected test system description (i.e. "selectability of test station configuration data such as selectable data ... different target software to be tested on at least one of the plurality of test stations and differing test software capable of testing the selected target software to be tested," col. 3 lines 13-25) as claimed.

Per claim 2:

The rejection of claim 1 is incorporated, and further, Laviolette teaches:

- receiving, at the management server, the software test associated with the target test system description (i.e. col. 6 lines 50-54) as claimed.

Per claim 3:

The rejection of claim 2 is incorporated, and further, Laviolette teaches:

- forwarding, from the management server, the software test, to the selected test system; and executing the software test at the selected test system (i.e. col. 6 lines 63-67) as claimed.

Per claim 4:

The rejection of claim 1 is incorporated, and further, Laviolette teaches:

- receiving at the management server, a test system description, the test system description associated with a functioning system in the distributed network environment (i.e. col. 6 lines 50-56) as claimed.

Per claim 5:

The rejection of claim 4 is incorporated, and further, Laviolette teaches:

- comparing the test system description to the test system descriptions list (i.e. col. 6 lines 50-56, 60-63) as claimed.

Per claim 6:

The rejection of claim 4 is incorporated, and further, Laviolette teaches:

- adding the test system description to the test system descriptions list (i.e. col. 6 lines 48-56) as claimed.

Per claim 7:

The rejection of claim 4 is incorporated, and further, Laviolette teaches:

- communicating with the functioning system at a management agent; determining at least one characteristic of the functioning system at the management agent; and creating the test system description based on the at least one characteristic (i.e. col. 6 lines 38-42) as claimed.

Per claim 8:

The rejection of claim 1 is incorporated, and further, Laviolette teaches:

- descriptions of fully functioning test systems, descriptions of heterogeneous test systems, descriptions of test systems used to balance a network workload, descriptions of test systems used during specific usage periods, and descriptions of test systems compatible with a particular test (i.e. col. 3 lines 35-44; col. 7 lines 46-58) as claimed.

Per claims 9-15, they are the product versions of claims 1-7, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 1-7 above.

Per claims 16-21, they are the system versions of claims 1-7, respectively, and are rejected for the same reasons set forth in connection with the rejection of claims 1-7 above.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Insun Kang whose telephone number is 571-272-3724. The examiner can normally be reached on M-F 9:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on 571-272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

I. Kang
Examiner
3/16/2005

Kakali Chaki
KAKALI CHAKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100